

**du Treil, Lundin & Rackley, Inc.**

A Subsidiary of A. D. Ring, P.C.

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JUN 13 1994

June 10, 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Secretary  
Federal Communications Commission  
Washington, D.C. 20554

re: RM-7651

Greetings:

Enclosed are eleven copies, including the original, of a Request to File Supplement to Petition in the matter of amendment of the Commission's rules regarding grandfathered short-spaced stations.

Kindly contact the undersigned should there be a question regarding this document.

Sincerely,

Louis R. du Treil, Sr.

LRD\tb  
dLR:2199.9363

Enclosures

cc: Mr. Benjamin F. Dawson III  
Mr. Donald G. Everist

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JUN 13 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

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*Before The  
Federal Communications Commission  
Washington, D.C. 20554*

In the Matter of

Amendment of the Commission's Rules                    )  
Regarding Grandfathered Short-                            )  
Spaced Stations    )

RM-7651

To: The Commission

REQUEST TO FILE SUPPLEMENT TO PETITION

The firms, Hatfield & Dawson Consulting Engineers, Inc., Seattle, Washington; du Treil, Lundin & Rackley, Inc., Sarasota, Florida; and Cohen, Dippell and Everist, P.C., Washington, D.C., hereby request, under Section 1.405(c) of the Commission's Rules, permission to file this supplement to our above-captioned pending petition for rule-making. This supplement will provide new and clarifying information to the Commission to facilitate rule changes with respect to grandfathered short-spaced FM facilities.

1. We would like to clarify that our petition addresses only the technical matter of transmitter moves for stations authorized prior to November 16, 1964, which are short-spaced on second and third adjacent channel frequencies. As pointed out in our original petition, we are seeking to have the Commission re-adopt the prior version of Section 73.213, before that section was amended (mistakenly, in our view) to restrict antenna site changes by the Second Report and Order in MM Docket No. 86-144.

2. In no sense is our petition meant to address the situation of "drop-ins", "move-ins" or reallocations of frequencies to different communities of license. Our petition deals only with the issue of antenna site moves for existing short-spaced FM stations.

3. The previous version of the rule, which we seek to have re-adopted, "grandfathers" FM stations with existing shortfalls on second and third adjacent channels. Our petition is not meant to address the question of spacing criteria for new FM stations or allotments. The Commission's rules in numerous instances contain "grandfathering" provisions. Attached hereto is a schedule, by no means intended to be exhaustive, of Commission's rules which incorporate a grandfathering provision.

4. The rule change as proposed in our petition would strike the proper balance between granting flexibility to existing grandfathered FM licensees to change their antenna locations, without impacting the integrity of the minimum spacing rules for new stations with subsequent harm to the industry as a whole. A grandfathering provision, such as in the earlier version of Section 73.213 and currently exists in many other cases in the rules (see attached), is an appropriate way to strike a balance.

5. Finally, we note that our petition has been on file with the Commission since February of 1991. As the Commission is aware, a number of minor change FM applications are "on hold"

pending the outcome of this rulemaking. For this reason, we respectfully request that Commission issue a Notice of Proposed Rule Making.

Respectfully submitted,

*Benj. F. Dawson /JB.*

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June 10, 1994

Illustrative List of FCC Broadcast Rules  
with Grandfathering Provisions

| <u>Rule</u>  | <u>Subject Matter</u>                       |
|--------------|---|
| 73.37 Note 1 | Calculation of improvement factors          |
| 73.53 Note   | Antenna monitors                            |
| 73.211(c)    | Power and antenna height requirements (FM)  |
| 73.213       | Grandfathered short-spaced stations (FM)    |
| 73.317(a)    | FM transmission system requirements         |
| 73.507(b)    | Separation requirements (non-commercial FM) |
| 73.525(b)    | TV channel 6 protection by NCE-FMs          |
| 73.612 Note  | Interference protection (TV)                |
| 73.1660(c)   | Broadcast transmitters                      |
| 73.3555(e)   | Multiple ownership                          |
| 74.902(b)    | Instruction television fixed service        |
| 74.936(b)    | ITFS emissions and bandwidth                |

CERTIFICATE OF SERVICE

I certify that I have this 10th day of June, 1994 sent the foregoing document by Federal Express to Ann Vogt for hand delivery on June 13, 1994 to:

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